

JJM, MEDIATION

**U.S. DISTRICT COURT**  
**U.S. District Court, Western District of New York (Buffalo)**  
**CIVIL DOCKET FOR CASE #: 1:07-cv-00411-RJA**  
**Internal Use Only**

Softrend, Inc. v. Wee Squeak et al  
Assigned to: Hon. Richard J. Arcara  
Cause: 35:145 Patent Infringement

Date Filed: 06/26/2007  
Jury Demand: Plaintiff  
Nature of Suit: 830 Patent  
Jurisdiction: Federal Question

**Plaintiff****Softrend, Inc.**

represented by **Dariusz Keyhani**  
Meredith & Keyhani, PLLC  
330 Madison Avenue  
6th Floor  
New York, NY 10017  
646-536-5692  
Fax: 212-202-3819  
Email:  
dkeyhani@meredithkeyhani.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant****Wee Squeak****Defendant**

**Scott Beach, LLC**  
*doing business as*  
Squeakersshoes.com

**Defendant****Kid Squeakers, LLC**

TEST: A TRUE COPY  
U.S. DISTRICT COURT, W.D.N.Y.  
RODNEY C. EARLY, CLERK

3y *James D. Keenan*  
Deputy Clerk

Date Filed	#	Docket Text
06/26/2007	<a href="#"><u>1</u></a>	COMPLAINT against Wee Squeak, Scott Beach, LLC, Kid Squeakers, LLC ( Filing fee \$ 350 receipt number 3506.), filed by Softrend, Inc.. (JDK) (Entered: 06/26/2007)
06/26/2007	<a href="#"><u>2</u></a>	Summons Issued as to Wee Squeak, Scott Beach, LLC, Kid Squeakers, LLC. (JDK) (Entered: 06/26/2007)
	<a href="#"><u>3</u></a>	

06/26/2007		AUTOMATIC REFERRAL to Mediation (JDK) (Entered: 06/26/2007)
06/26/2007	●	(Court only) ***Set/Clear Flags, ***Standby Magistrate Judge JJM (JDK) (Entered: 06/26/2007)
06/26/2007	●	Clerk mailed certified copies of complaint and docket to Commissioner of Patents and Trademarks (JDK) (Entered: 06/26/2007)

**THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

ECF  
DOCUMENT

I hereby attest and certify that this is a printed  
copy of a document which was electronically  
filed with the United States District Court for  
the Western District of New York.

Date Filed: 10/26/09  
Rodney C. Early, Clerk

By: \_\_\_\_\_ Deputy Clerk

SOFTREND, INC.

Plaintiff,

-against-

WEE SQUEAK, SCOTT BEACH, LLC d/b/a  
SQUEAKERSHOES.COM, KID SQUEAKERS, LLC,

Defendants.

**COMPLAINT**

**JURY TRIAL  
DEMANDED**

Plaintiff, SOFTREND, INC. ("Plaintiff" or "SOFTREND") for its Complaint  
against Defendants, WEE SQUEAK, SCOTT BEACH, LLC d/b/a  
SQUEAKERSHOES.COM, and KID SQUEAKERS, LLC ("Defendants") alleges as  
follows:

**PRELIMINARY STATEMENT**

1. This is an action for infringement of United States Patent Number  
5,640,788 ("the '788 Patent"), pursuant to the United States Patent Act. A copy of the  
'788 patent is attached to this Complaint as Exhibit A.

2. Plaintiff is the owner of the '788 Patent.

**PARTIES**

3. Plaintiff is a corporation which does business throughout the United States  
and is located in the State of New Jersey.

4. Upon information and belief, Defendant WEE SQUEAK is located at  
2533 Franklin Street Ste #14B, Mesquite, Texas 75149 and actively targets customers in  
the State of New York.

5. Upon information and belief, Defendant SCOTT BEACH, LLC d/b/a SQUEAKERSHOES.COM is located 1443 Cedarhurst Drive Atlanta, Georgia 30338 and actively targets customers in the State of New York.

6. Upon information and belief, Defendant KID SQUEAKERS, LLC is located at 148 Tanoak Lane Naperville, IL 60540 and actively targets customers in the State of New York.

### **JURISDICTION AND VENUE**

7. This is an action for pecuniary and injunctive relief from patent infringement arising under the United States Patent Act, Title 35 of the United States Code.

8. This Court has jurisdiction over the subject matter of this action as provided for in 28 U.S.C. §1331 and §1338. Venue is proper in this District pursuant to 28 U.S.C. §1391 and §1400.

9. Upon information and belief, this Court has jurisdiction over the Defendants because Defendants regularly transacts business in the State of New York, and Defendants have committed acts of patent infringement during the course of business in this District.

### **FACTUAL BACKGROUND**

10. Plaintiff is the owner of the '788 Patent for a "Noise-making sole for footwear."

11. The '788 patent issued on June 24, 1997.

12. Upon information and belief, Defendants sell products that infringe upon one or more claims of the '788 patent.

### **FIRST CAUSE OF ACTION FOR PATENT INFRINGEMENT**

13. On June 24, 1997, the '788 Patent was duly and legally issued to Plaintiff.

14. Pursuant to 35 U.S.C. § 282 the '788 Patent is presumed valid.

15. Defendants' activities constitute infringement of one or more claims of the '788 Patent.

16. Upon information and belief, Defendants will continue to infringe the '788 Patent unless enjoined by this Court.

17. As a result of Defendants' infringing conduct, Plaintiff has been irreparably damaged to an extent not yet determined and Plaintiff will continue to be irreparably damaged by such acts in the future unless Defendant is enjoined by this Court from committing further acts of infringement.

18. The infringement of the '788 Patent alleged above has injured Plaintiff. Plaintiff is entitled to recover damages in an amount that adequately compensates Plaintiff for Defendants' infringement, which, in no event, can be less than a reasonable royalty.

#### **REQUESTED RELIEF**

WHEREFORE, Plaintiff prays for a judgment against Defendant as follows:

- A. That Defendants be declared to have infringed, induced others to infringe, and/or committed acts of contributory infringement, with respect to the claims of the subject U.S. Patent;
- B. That Defendants, their officers, agents, servants, employees, attorneys, parents, subsidiaries, affiliates, successors, and all others in active concern or participation with them or acting on their behalf be permanently enjoined from further infringement of the subject U.S. Patent;
- C. That Defendants be ordered to account for and pay to Plaintiff all damages caused to said Plaintiff by reason of said Defendant's infringement of the subject U.S. Patent pursuant to 35 U.S.C § 284 including enhanced damages;
- D. That Plaintiff be granted pre-judgment and post-judgment interest on the damages caused to them by reason of Defendants' infringement of the subject U.S. Patent;
- E. That this matter be declared an "exceptional case" pursuant to 35 U.S.C.

§ 285 and that said Defendants be ordered to pay Plaintiff's attorney fees and costs; and

- F. That Plaintiff is granted such other and further relief as the case may require and the Court may deem just and proper.

**JURY DEMAND**

In accordance with Fed. R. Civ. P. 38 (b), Plaintiff hereby demands a trial by jury.

Dated: June 26, 2007



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Dariush Keyhani (DK-9673)  
Jennifer Meredith (JM-4816)  
Meredith & Keyhani, PLLC  
Attorneys for Plaintiff  
81 Linwood Avenue  
Buffalo, NY 14209  
(212) 202-3819 Main Number  
(716) 898-8938 Direct Line  
(716) 299-2499 Facsimile  
dkeyhani@meredithkeyhani.com